

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
Plaintiff,)
v.) Case No. 10-3305-CV-S-RED
RELIABLE HEAT & AIR, LLC, et al.,)
And)
RANDALL RICHARDSON, et al.)
Defendants.)

OPPOSITION TO PLAINTIFF'S MOTION TO CLARIFY
DOCUMENT #122

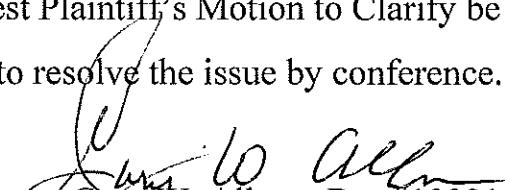
COME NOW, Defendants and oppose and object to Plaintiff's Motion to Clarify for the following reasons:

1. Plaintiff's motion requests clarification of a previous order of this Court concerning Discovery.
2. This Court by its Second Amended Scheduling Order of July 29th, 2011, ordered that the Court would not entertain any discovery motion absent full compliance with Local Rule 37.1.
3. Local Rule 37.1 requires the attorney conference and attempt to resolve disputes prior to bring the issue to the Court as stated in the Rule quoted below:

“37.1 DISCOVERY MOTIONS (a) Except when authorized by an order of the Court, the Court will not entertain any discovery motions, until the following requirements have been satisfied:

1. Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion. See Rule 26(c), Federal Rules of Civil Procedure and *Crown Center Redevelopment Corp. v. Westinghouse Elec.*, 82 F.R.D. 108 (W.D. Mo. 1979); and
2. If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the Court for an immediate telephone conference with the judge and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held. "
4. Plaintiff's motion is a "discovery" motion and the attorney or parties have not conferred in good faith concerning this matter.
5. This Court should not entertain Plaintiff's motion until the Attorneys have conferred concerning this issue and the attorneys should be so advised.

WHEREFORE, Defendants request Plaintiff's Motion to Clarify be denied and the attorneys be directed to resolve the issue by conference.



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